

"A Historic Past"



"A Bright Future"

CITY OF DELAWARE CITY

407 Clinton Street - P.O. Box 4159
Delaware City, Delaware 19706
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**CITY OF DELAWARE CITY
PUBLIC HEARING &
MAYOR AND COUNCIL MEETING
August 19, 2013**

CALL TO ORDER – PUBLIC HEARING

The Honorable Mayor Green called to order the Public Hearing at 6:00 pm.

ROLL CALL

Present were Council Members Barrett, Titus, Johnson, Malinowski and Buchheit. Also present were City Manager Cathcart, City Secretary Gwynn, City Treasurer Hartman, Police Chief Tjaden and City Solicitor Walton.

85-93 Clinton Street – Silver Heron I, LP (The Central Hotel)-Relating to Authorizing an Easement for a Deck and Stairs on Public Right of Way

City Manager Cathcart gave an overview of the proposal for a deck, stairs for entrance and exit on West Side of building, and a screened area for dumpster. Once the Council approves this, the easement proposal will be turned over to the City Solicitor to draft the easement. In exchange for the easement, Silver Heron I, LP will remove the roadway between the building and the old canal, two trees (one diseased) and replace these trees with trees of the equivalent of the total diameter of the removed trees. They will also replace the concrete sidewalk on Front Street with brick sidewalk and install downspout drains on the Clinton Street side so the water doesn't just pour onto the sidewalk, but rather goes through a grated trough under the sidewalk into the street. These agreements will become part of the easement. He pointed out that the Mayor and Council had drawings in their packet showing the locations of the proposed changes.

Mayor Green asked if anyone had any comments or questions regarding this issue. There were no comments.

Front and Adams Streets Subdivision – Whittaker Brothers, Inc. – 1 Lot into 3 Lots

City Manager Cathcart gave a brief overview stating that the purpose of this subdivision was to construct three single family homes. Council Member Barrett questioned the parking. Mr. Whittaker said there were garages in the rear. There were no other questions or comments.

Ordinance 13-0715-01 – Relating to Establishing A License Process for the Sale and Consumption of Alcoholic Beverages on the City of Delaware City Property

City Manager Cathcart gave a detailed background of the ordinance, as there is much misinformation pertaining to it. He explained he had introduced this ordinance after missing an opportunity last year to participate in a joint event with Salem, New Jersey and the Delaware River and Bay Authority, due to the fact that there was prohibition against alcohol being served on City property. That event would have been a music festival with wine and beer. The ordinance failed to be adopted last year when the motion to adopt it did not get a second. During the intervening months, City Solicitor Cathcart found that some Council Member were not comfortable with the ordinance as they were afraid of losing control of an event. So he amended the ordinance by making it mandatory that the Council would approve these events, on a case by case basis. An event could not be approved solely by the City Manager. When City Manager Cathcart placed the amendment on the agenda, he received a call from a Council Member questioning whether he could change this by amendment. When he asked the City Solicitor if he could do this with an amendment, the response from City Solicitor Walton was "yes". However, rather than cause a lot of turmoil, he requested that a new ordinance be drafted that included this approval provision.

Ordinance 13-0715-01 allows for the serving and consumption of alcohol on City owned property for City sponsored or co-sponsored events only. The only entity that would be allowed to present this to Council would be the City administration. No organization off the street would be allowed to come before Council and request permission to sell alcohol in the park. A City sponsored or co-sponsored event means an event that is initiated by the City.

The way the process would work is as follows: 1) The event would be put before Council for approval; 2) If Council approves the event, the City would apply to the Alcohol Beverage Commission (ABC) to get permission from the State to do the event; 3) If the State approves it, the City would be required to comply with all ABC restrictions and regulations in order to qualify for a license for a one day event. One requirement would be that the pourers/servers be State certified by the ABC. The area where the event is taking place would be fenced off with controlled access and exits. Within the fenced area would be an additional

fenced area where the alcohol would be served. No one under 21 would be allowed in this area. Each person would be carded upon entering the serving area and given a bracelet that would tell the pourer/server that they are at least 21 years old. Security would be present in the inner fenced area (serving area) and the outer fenced area to make sure all regulations are being followed. The security in the outer fenced area would make sure no one leaves the fenced area with alcoholic beverages.

The type of event where is could be used would be similar to the River Towns Ride which will include (if approved by Council) vendors, children's activities, music and craft beers.

City Manager Cathcart said two Council Members contacted City Solicitor Walton to ask two questions which were: Whether or not a Council Member needed to recuse himself from a vote and could an organization force the City to issue a permit. City Solicitor Walton will address these questions.

The City Manager shared what this ordinance would not do: does not open the parks to anyone who wants to drink alcohol in our parks; does not allow the City to issue permits for wedding receptions, picnics or reunions; does not create a situation from which any private business person benefits. This was not a back-room deal between the City Manager and a Council Member.

There would probably be no more than two events per year. City Manager Cathcart said he had an amendment to be introduced during the Mayor and Council Meeting which would limit the number of these types of events to two per year.

He explained the purpose of this kind of event by saying this was another was to attract people to Delaware City, to show off Delaware City and encourage people to purchase and improve properties in the town and to improve business in the City.

City Manager Cathcart vowed that he would return to the November Mayor and Council meeting with an ordinance to repeal the ordinance, if the October River Towns Ride turns out to be a disaster. He gave statistics of other municipalities in Delaware who allow the serving and consumption of alcoholic beverages during City sponsored events – 10 of 18 towns who responded allow these types of events. City Manager Cathcart said the Chief of Police has no problems with this kind of event. He has experienced them in the past and found they were not a problem.

City Solicitor Walton answered the questions that were posed to him as follows:

1. Would a Council Member be required to recuse himself if his business might benefit or might be hurt by this ordinance?

Response: No, recusal is not required on the mere possibility of a future financial interest that has neither come to pass nor has the immediate likelihood of coming to pass.

2. Might the City be required, in a particular circumstance, to co-sponsor an event even if the majority of the Council opposed the event?

Response: The City is required to act in a manner that is not capricious or arbitrary. Under the Equal Protection Clause, the City must treat all similarly situated individuals the same. If the City acts in a discriminatory manner based upon a protected class such as race, age, etc. then the courts look at disparate treatment (strict scrutiny). If the City treats similarly situated individuals the same and they do not make their decision based upon a protected class then the City's decision, whether or not to sponsor or co-sponsor an event, would fall under the rational basis test.

If the City made a decision not to sponsor or co-sponsor an event solely based on race or protected class then, yes a court could order it. This would be the same for any permit or action that the City might have.

3. What is the liability to the City if someone were to attend an event approved by the Council and got into an accident after leaving the event?

Response: No one can stop someone from suing. There is a very broad exemption from liability called the Municipal Tort Claims Act. Under this act, if someone were hurt, generally the City would be exempt from liability. There is an exception if a City employee acted with willful or wanton negligence or did something to potentially harm someone, then the employee could be held liable, but the City would still be protected under the Municipal Tort Claims Act. He recommended that the City have a rider in place on the City's insurance policy for any events. City Manager Cathcart said that is always done.

4. Could Council be forced to approve an event they are not in favor of?

Response: If there were two groups that came to City to have an event sponsored or co-sponsored and the City had to decide between the two groups, if the City made the decision based solely on race or another protected class, the court would look at this with strict scrutiny and might say the City would have to approve an event. This is an Equal Protection Right.

The Honorable Mayor Green opened the floor to citizen comments.

Paul Parets, 300 Bayard Street, told the Council they were going to consider an ordinance to change the nature of the City forever. Mr. Parets questioned how the amount of money (\$25) for permit fees would help pay for playground equipment. He pointed out that there was no language in the ordinance saying that the City would receive a percentage of the profits from the event. He pointed out other negative points of the ordinance, such as, no event cleanup responsibility and no event security responsibility. He said when a precedent has been set, an event cannot be denied. Mr. Parets stated that there are drug and alcohol problems in the city and there are already four retail businesses within the City that sell alcohol. He urged Council to defeat the ordinance.

City Manager Cathcart asked for an opportunity to respond to misinformation or misinterpretation. Mayor Green said he would like to continue with the Citizen's Comments and then would give the City Manager that opportunity.

Jenn Sullivan, 210 Monroe Street, said she was present to show her support of the Rivers Town Ride. She said the City should be given the opportunity to see how this event works. She said, according to City Manager Cathcart, the City would be using the money from these types of events for small projects such as playground equipment. She said she has confidence in the Council Members as they make a decision on a case by case basis. She encouraged people to reach out to the City Manager and Mayor and Council with questions.

At 6:35 PM, The Honorable Mayor Green said the Council Meeting was due to start at 6:30. Council Member Johnson made the motion to extend the Public Hearing. Council Member Titus seconded the motion. A voice vote was taken and passed unanimously.

John Martin, 212 Washington Street, said he was opposed to this ordinance as it was not beneficial to the town as a whole. He said the sale of alcohol on public property was not leading the City in the right direction. He said there is enough creativity in the City to be able to plan events, without needing to sell alcohol.

Kris Lynn, 905B Fifth Street, questioned the fact that there was no clear process spelled out in the ordinance, that it had loop holes. She said it was an incomplete ordinance at this point and that the process should be developed and posted before the ordinance is passed. She said nothing spelled out that law enforcement would be involved. She also said she thought she would have a more difficult time having an event approved for the Delaware City Environmental Coalition than Main Street would, due to her tempestuous relationship with the City Manager. She also asked Council Member Buchheit to recuse himself from the vote as it could be considered a conflict of interest.

Albert Schrack, Lot 66, said he was not speaking as a representative of the Fire Company, but rather as a resident. He said he had a problem with the sale and

consumption of alcohol on City property. He encouraged everyone to look at the problems Chesapeake City had due to alcohol sale during events. He also said he would not like to see the City parks closed to the children on event days. He expressed his concern with the need of additional police and EMS for such events. He asked that the ordinance not be passed.

Debra Martin, 212 Washington Street, said she was speaking in opposition to the ordinance. She agreed with the comments that were made by other residents who were opposed to the ordinance. She added that she was opposed to the process, in that she saw the flyers for the River Towns Ride and Festival which stated that Delaware City was a supporting organization. She asked how that could be done when the event was against Code when the flyers were printed. She said it was not good government and arrogant.

Mark Chura, Main Street, said his understanding is that the ordinance is an enabling ordinance, which allows a process to happen. This would simply allow Mayor and Council to review specific events. He assumed the location, security, nature of event, etc. would be reviewed for each event. He said the City was approached last year by the Delaware River and Bay Authority. Mr. Chura reiterated the purpose and events that were planned for last year. He said the DRBA has much experience with these types of event. They've done them in Lewes previously, as well as other locations. The last event they did in Lewes was a quality event, as far as music and food and drinks. DRBA handled security, and the cost of admission was \$60 per person. The purpose of the event in Delaware City last year was to encourage ridership between Delaware and New Jersey.

Dale Slotter, 210 Clinton Street, said people who are in opposition are acting like these festivals are brand new. He has seen them and attended them and found more control than there would be when people go to the liquor store, buy a six pack and take it to the park to drink. He said this would be a test of the Council Member's faith in themselves to see if they are strong enough to try this, and if it doesn't work, not allow it in the future. He added in response to the resident who said Council Member Buchheit should recuse himself, if that is the case, then Council Member Johnson and Barrett should also recuse themselves as they belong to organizations that serve alcohol, which could be considered a conflict of interest also.

Ray Fruytier, 909 Fifth Street, said he is in favor of the ordinance. He said some people who already said their piece were leaving. He thinks they didn't understand what City Manager Cathcart said. Mr. Fruytier reminded everyone that the City Manager said if this event did not work, the ordinance could be repealed the following month. Delaware City is a good town. He asked the Council to pass this ordinance.

Michael Cropper, 409 Hamilton Street, said he was in favor of the ordinance. The servers/pourers would be licensed and very carefully monitored. The State ABC would impose more regulations than the Council could even imagine. All trainers would be required to take four hours of training. He asked if the Council wanted to deny the revenue for playground equipment the event could earn.

The Honorable Mayor Green took a few minutes to introduce Jeff Gordon, from the American Birding Association, who was present. Their team is moving to Delaware City and housing their offices in The Central Hotel. He welcomed them to Delaware City.

Kevin Whittaker, 610 Front Street, speaking as a resident, property manager, President of Main Street, and business owner, he said he was in favor of this ordinance. Would like to see Main Street partner on more events like this with the City. He said he has all the faith in the world in the City Manager that the event will run smoothly and that there will be sufficient security. He said he has been to many of these events and has never seen any go awry. He said Main Street is trying to promote upscale events.

Tim Konkus, 302 Canal Street, said he is in support of this ordinance. He said he was surprised at some of the people who have spoken against this ordinance, as he has witnessed some of those same people drinking alcoholic beverages on Clinton Street during two different Christmas parades. He said he has full confidence that each and every permit can be administered by the City Manager and approved or disapproved by the Council. He asked Council to support this ordinance.

The Honorable Mayor Green reminded the attendees that he had said the City Manager would have sufficient time to respond to some comments.

City Manager Cathcart said the permit fee he set in the original draft was much higher. City Solicitor Walton lowered it to \$25 as he said the City couldn't arbitrarily set fees that were not in line with other permit fees charged by the City.

There was a comment made about there being nothing in the ordinance saying the City gets the profits. City Manager Cathcart said that just the fact that the State ABC license is issued to the City and that the City is selling the alcohol, the profits would come to the City.

There was a comment about organizations coming in without having proof of insurance. The group that is running the event is the City; the City has insurance and would get a one day rider for the event, just like it does for every other event in the City, so no proof of insurance is required. If the event is not City sponsored or co-sponsored, there is no event.

The comment about not being able to deny groups was incorrect and did not take into consideration that the City Solicitor said the City has every right to deny a group as a co-sponsor as long as the City doesn't deny them based on race, age, sexual orientation or any other protected class. This has nothing to do with free speech. The City Solicitor clearly mentioned that in his comments.

In response to the comment that the ordinance does not spell out how the money from the event will be spent, the Council has the ability to earmark how money will be spent. In fact this Council already announced that the money from the River Towns Ride would go to playground equipment. It has already been decided.

In response to the comments about The River Towns Ride being a "done deal" and arrogant because the programs were printed before the ordinance was voted on, this Ride and Festival would go on October 5th, whether the ordinance was passed or not. The City has been working on this with the City of New Castle for almost 18 months. It was a great opportunity to work with New Castle. This event could be done each year and grow into a great money maker.

The comment that was made about no process being spelled out in the ordinance can best be addressed by saying that, of course, there is no process in the ordinance. As Mr. Chura said, this is enabling legislation and until the City determines the final version of this legislation, rules, processes and regulations can't be promulgated.

In response to the comment about not mentioning security in the ordinance, this event would be no different than any other City event. Of course there would be law enforcement. The City would make arrangements for law enforcement and EMS in advance, just like we do for Delaware City Day. If anyone read the articles regarding Chesapeake City, they would know the event got out of hand because the City had no control over it. The event was being held on private property. It was not resolved until the City government got involved and shut down the event.

The comment saying kids will not be allowed in the park during these events is incorrect. Kids will be included in these events. There will be rides and activities and vendors in the park. This will be a family event.

Mayor Green asked if anyone else had comments. He thanked everyone for cooperating and expressing their opinion. He said he was extremely pleased with the turn out.

ADJOURN PUBLIC HEARING

Mayor Green said he wanted to close the public hearing. *Council Member Titus made a motion to close the public hearing on all three agenda items. Council Member Barrett seconded the motion. A voice vote was taken and passed unanimously.* Council Member Green adjourned the Public Hearing at 7:08 PM.

CALL TO ORDER – MAYOR AND COUNCIL MEETING

The Honorable Mayor Green called to order the regular meeting of the Mayor and Council at 7:15 PM.

PLEDGE OF ALLEGIANCE

The Honorable Mayor Green led the Pledge of Allegiance to the flag.

ATTENDANCE ROLL CALL

Present were Council Members Barrett, Titus, Johnson, and Buchheit. Also present were City Manager Cathcart, City Treasurer Hartman, City Secretary Gwynn, Police Chief Tjaden and City Solicitor Walton. Council Member Malinowski arrived shortly after the roll call.

ACTION UPON THE TREASURER'S REPORT

City Treasurer Hartman gave the Treasurer's Report for July 2013. As a follow-up to the Delaware City Athletic League, City Treasurer Hartman said the new person in charge contacted her to see if the donation money was still available. She informed him that it was not donated last year, but was carried forward into FY14 budget. He is working to get the necessary information to the City. *Council Member Buchheit made a motion to approve the Treasurer's Report, subject to audit. Council Member Titus seconded the motion. No discussion occurred. A vote was taken, all ayes, motion carried.*

ACTION UPON THE MINUTES OF THE PREVIOUS MEETING

Council Member Buchheit made a motion to approve the minutes of the July 15, 2013 meeting as written. Council Member Barrett seconded the motion. No discussion occurred. A vote was taken, all ayes, motion carried.

POLICE REPORT

Chief Tjaden reported the police activity statistics for the period from 7/15/2013 through 8/13/2013, with a total of 46 arrests: 5 criminal arrests, 40 traffic arrests and 1 drug arrest. He also reported the following:

- Delaware City Day was pretty busy, with a couple arrests.

- Assisted Wilmington Police Department (WPD) on a shooting incident that occurred in Wilmington. Found the suspect's car at Front and Washington Street. Held the car until the WPD came down and took the car as evidence.
- The Drug Take Back Program will take place at Town Hall on October 26th, from 10:00 – 2:00.
- Investigated a harassment case in conjunction with Capital Police Department. Some items were seized from residence and arrests were made.
- Submitted grant applications for SALLE, EIDE and Violent Crime totaling about \$20,000. Also submitted a \$10,000 CJC grant application in order to restart the Community Court Program.
- The 2008 Dodge Charger sustained some water damage. Working with insurance company.
- Assisted in the 9/11 Foundation ride and the Ronald McDonald House motorcycle ride.

CITY SOLICITOR'S REPORT

City Solicitor Walton reported the following:

- Completed research on business license fees and rental fees. Working on fees with the City Manager. Drafted the ordinances which will be presented next month.
- Worked with City Manager Cathcart regarding the Delaware City Community Center being advertised by a tenant as a school. Fortunately those advertisements were taken down from the internet.
- Worked with Council Members Barrett and Malinowski on the ordinance that was discussed at Public Hearing. Worked on this topic to prepare for the Mayor and Council meeting.
- Wrote three Board of Adjustment decisions.
- Handled a FOIA issue for the City.

CITY MANAGER'S REPORT

City Manager Cathcart reported the following:

- Coordinated a meeting with the Army Corp of Engineers, DNREC and Main Street Delaware City, related to the By-way Grant and the alignment of the trail on the south side of the Branch Canal and its link to the new Fifth Street Bridge. An alignment, in general terms, was agreed upon. There will be follow-up meetings to finalize the trail location prior to going to bid for the design work.
- The firm of Johnson, Mirmiran & Thompson (JMT) has been selected to do the master plan for the Community Center Park project. We are meeting with them this week to discuss the scope of work and fees.

Council Member Johnson and Main Street's Mark Chura assisted with this.

- Met with Dave Carlson of DEMA to provide more information towards finalization of our Grant for the Washington Street Flood Project. We also met with FEMA last week to give them a tour of the flood area and an opportunity to evaluate the value of the project. We received favorable opinions of the project from the State and Federal Governments.
- Attended the quarterly meeting of the Community Rating System (CRS) user group to discuss flood mapping and other pertinent issues relating to flooding and how to improve our rating.
- Met with Rebecca Shepard, University of Delaware, to discuss the upcoming study of the condition of the existing canal lock. This project is scheduled to start this fall. Completed previous work which was a study of the history of the lock.

General Meetings

- Board of Adjustment
- Playground Ad Hoc Committee
- Planning Commission
- Historical Preservation Committee
- Board of Health Meeting

Project Updates

- Branch Canal Trail construction to start September 3, 2013. Contract was awarded 4/2012.
- Fifth Street Bridge design and construction documents Federal FY14 (starting 10/2013), construction fall of Federal FY15 (starting 10/2014). This will be a 90 day project and will keep some components of the old bridge.
- USDA grant for the sidewalk and plaza extension started two weeks ago. It is a tribute to Delaware City that the American Birding Association is coming to Delaware City. Thanks go to Susan and Dana Renoll for working to bring the organization here. Welcomed Jeff Gordon to Delaware City.
- The Community Center Management Agreement with Main Street runs out next month. Will bring the new agreement to the September meeting. Met with the Mayor and Main Street three times regarding the following:
1) Right now the current agreement is for \$20,000, contingent upon renting the building. If they don't rent the building, they don't receive any money. However, there is a lot of effort put into building maintenance, building management and rental coordination. The new draft agreement

will have some guarantee minimum component. In return for a guaranteed minimum, Main Street will continue the maintenance repair coordination and the events coordination. But more importantly, Main Street has committed to hire a 20 hour per week, part time employee, who will work out of Town Hall, with oversight by the City Manager. The Main Street board will set direction, policy and procedures that are relevant to Delaware City. The actual tasks will be developed jointly between Main Street and Delaware City.

Council asked, for transparency sake, if the “Johnson” with the firm Johnson, Mirmiran & Thompson was related in any way to Vice Mayor Johnson. The Vice Mayor said that to his knowledge, they are not related to him.

MAYOR’S REPORT

Mayor Green reported the following:

- Thanked Vice Mayor Johnson for filling in while he was on vacation.
- Attended monthly Commission meetings.
- Attended BINGO at the Delaware City Senior Center.
- Attended Emergency Management training session with members of Board of Health.
- Attended the Refinery security meeting.
- City hosted 7 bike riders who were riding from Michigan to New Jersey to raise money for Muscular Dystrophy. He thanked Kathy’s Crab House and Dale Slotter and John Buchheit for serving them ice cream and setting up a social event. The City gave them little gift baskets.
- Presented photo collage to various State and City dignitaries to thank them for spearheading the new Route 13 DMV which has been named the Delaware City Motor Vehicle.
- Have been involved in the constant battle for flood mitigation with City Manager Cathcart.

COUNCIL REPORTS

Council Member Buchheit gave the City a \$250 donation from Chura and Associates and a \$400 donation from the Ice Cream Parlor for playground equipment. The next fundraiser will be the River Towns Ride and Festival in October. He said Delaware City is selling ads for the program. He encouraged everyone to work together to raise money.

APPOINTMENTS, ANNOUNCEMENTS, COMMUNICATIONS

None

REPORTS OF COMMISSIONS, COMMITTEES AND ORGANIZATIONS

Delaware City Day – City Manager Cathcart reported it was a great day, with some glitches that were ironed out. Preparation was a 10 month process. He thanked Beth Konkus who worked with the vendors. There were two arrests that weren't associated with the Day. There was one domestic and one overdose. There were no arrests as a result of Delaware City Day. He recognized Mayor Green who raised \$32,000 from contributions. There will be a wrap up meeting in October. Any traffic problems were related to a heart attack victim on Reedy Point Bridge.

Main Street – Mark Chura said Movie Night in Battery Park was a success last Saturday night. He thanked sponsors Whittaker Brothers and Sue and Dana Renoll. They have also been supporting Music in the Park. He thanked Megan from Pampered Pets for the popcorn for Movie night.

Reedy Point Players will have a performance at the Community Center in October. In November, the Delaware Bar Association will do a performance as a public service. They have been rehearsing here for two years and will do their dress rehearsal, which is open to the public.

The Canal Trail is very important to Main Street which invested quite a lot on projects related to the Trail. There were a couple of grants that were awarded to support investments in the trail. To date, work that has been done was a boundary clarification, establishing a fence, and cleaning up the City property which will be planted with native species and the future home of different bird habitats structures. Once the trail is in, other projects that will be added are an observation platform overlooking a fresh water marsh, interpretive panels on that structure, platforms built for herons and money set aside for flood control issues for the surrounding community.

OLD BUSINESS

Second Reading & Adoption of Ordinance 13-0715-01 Relating to Establishing a License Process for the Sale and Consumption of Alcoholic Beverages on the City of Delaware City Property

Mayor Green said City Manager Cathcart had spoken at length about this during the public hearing. He called for a motion for the Second Reading. City Solicitor Walton said it is not necessary to have a motion for the Second Reading , but it could be done. *Council Member Buchheit made a motion to accept the Second Reading of Ordinance 13-0715-01 Relating to Establishing a License Process for the Sale and Consumption of Alcoholic Beverages on the City of Delaware City Property. Council Member Titus seconded the motion. Discussion followed. A roll*

call vote was taken with the Council voting as follows: Barrett – nay, Titus, aye, Johnson – aye, Malinowski – nay and Buchheit – aye. Motion carried.

Council Member Titus introduced Substitute Amendment No. 1 to Ordinance No. 13-0715-01 which reads as follows:

**AN ORDINANCE TO ESTABLISH LICENSING PROCESS
FOR THE SALE AND CONSUMPTION OF ALCOHOLIC
BEVERAGES ON THE CITY OF DELAWARE CITY
PROPERTY**

WHEREAS, as a component of the public hearing process, the City Council desires to adopt an amendment to proposed Ordinance No. 13-0715-01 ("Proposed Ordinance") relating to the sale of alcoholic beverages for Delaware City sponsored or co-sponsored events.

NOW THEREFORE, Section 3 of the Proposed Ordinance, creating Section 25-I(A) of the Delaware City Code, is hereby amended to add the following sentence at the end of Section 25-I(A) 2:

"The City Council shall not issue more than two (2) permits per year for City sponsored or co-sponsored events where alcoholic liquors and/or beverages are served on City owned lands."

If this Substitute Amendment 1 is accepted and adopted by the City Council, this amendment shall be incorporated into and become a component of the Proposed Ordinance and both together shall be deemed a substitute version of the Proposed Ordinance. All provisions of the initial Proposed Ordinance unaltered hereby shall remain unchanged.

City Solicitor Walton proposed a process for consideration of the proposed amendment. He said the Council should first vote on the amendment, then vote on the ordinance as amended. *Council Member Titus made a motion to consider this amendment and make it part of the ordinance. Council Member Buchheit seconded the motion. A roll call vote was taken, with Council Members voting as follows: Barrett – nay, Titus – aye, Johnson – aye, Malinowski – nay and Buchheit – aye. Motion Carried.*

City Solicitor Walton reminded the Council that they are going to be deciding upon the ordinance as amended. He suggested a motion, a second, followed by discussion and a vote. *Council Member Buchheit made a motion to adopt Ordinance 13-0715-01 as amended. Council Member Titus seconded the motion. Discussion followed. A roll call vote was taken with Council Members voting as follows: Barrett – nay, Titus – aye, Johnson – aye, Malinowski – nay and Buchheit – aye. Motion carried.*

NEW BUSINESS

Authorizing an Easement Agreement between the City and Silver Heron I, LP (The Central Hotel), 85-93 Clinton Street for a deck and stairs

Council Member Buchheit made a motion to accept an Easement Agreement between the City and Silver Heron I, LP. Council Member Titus seconded the motion. Discussion followed. A roll call vote was taken, all ayes, motion carried.

Corner of Front & Adams Street Subdivision – Whittaker Brothers Inc. – 1 Lot into 3 Lots

Council Member Malinowski recused himself from the vote. He left the Council table and sat in the audience in order to comply with Delaware law. Council Member Buchheit made a motion to approve this subdivision. Council Member Johnson seconded the motion. Discussion followed regarding the recusal. A roll call vote was taken with the Council Members voting as follows: Barrett – aye, Titus – aye, Johnson – aye, Buchheit – aye, and Malinowski – recusal. Motion carried.

Approval of the Sale and Consumption of Alcoholic Beverages for October 5, 2013 River Towns Ride and Festival

Council Member Titus made a motion to approve the sale and consumption of alcoholic beverages on October 5, 2013 for the River Towns Ride and Festival. Council Member Buchheit seconded the motion. There was no discussion. A roll call vote was taken with Council Members voting as follows: Barrett – nay, Titus – aye, Johnson – aye, Malinowski – nay, and Buchheit – aye. Motion carried.

CITIZEN COMMENTS

Kris Lynn, 907B Fifth Street, said that Fifth Street is a known area where the police set up speed traps. Mayor Green reminded the attendees that this is not a time for debate, but rather comments. If any questions need to be answered, they will be followed up on after the meeting. Ms. Lynn said that many cars go by and then the police go in pursuit of speeder. The police travel at a high rate of speed with no lights or sirens. She feels that is unsafe. She asked why it is done that way. Chief Tjaden said he didn't know why, without checking with the officers. Mayor Green said Chief Tjaden would follow up and get back to Ms. Lynn.

Ms. Lynn asked when and where the public Main Street and the Ethics Commission meetings were held. City Manager Cathcart said that Main Street is not part of the City government and she would need to check with Main Street. As far as the Ethics Commission, Council replied that there would only be a meeting if charges were filed.

Ms. Lynn also asked if the City had an evacuation plan in place for a crisis in the chemical complex. City Manager Cathcart said the City piggybacks off the New Castle County Plan and that she would need to get a copy from them.

Tim Dilliplane, 118 Clinton Street, asked if the City has had any discussion with the refinery about their train schedule. City Manager Cathcart said he had attended some meetings regarding the train schedules. He said Lisa Lindsay, from the refinery, was in attendance if she would like to address that question. Ms. Lindsay said there is no set schedule.

Beth Konkus, 302 Canal Street, pointed out that the 5th Street Bus Stop has no cover. City Manager Cathcart said the City requested that from DART. They said they were going to put up a sheltered structure. He will follow up on this.

ADJOURNMENT

Council Member Johnson made a motion to adjourn the Mayor and Council Meeting. Council Member Titus seconded the motion. A vote was taken, all ayes, motion carried. Meeting adjourned at 8:15 PM.

Respectfully submitted,
Dawn K. Gwynn
City Secretary